

LABORATORY CERTIFICATION STANDARDS REVIEW COUNCIL
MEETING MINUTES FROM 5/21/98

Attendance

Staff: Jack Sullivan, Jeff Ripp and Alfredo Sotomayor

Council Members: Mary Christie (Chair), Gilbert Williams (Vice-chair), David Kollakowsky, Ruth Klee Marx, Bill Sonzogni, Debbie Cawley, Bill Bruins and Russ Janeshek. Barb Hill was absent from the meeting.

Guests: Barb Burmeister (SLH), Laura Forst (DATCP), Paul Harris (Davy Labs), Paul Junio (NET, Inc.), Art Lautenback (Robert E. Lee), R.T. Krueger (Northern Lake Services).

Action Item Summary

- The previous meeting's minutes were accepted without changes.
- The DNR will revise LOD reminder letter to include deadline, enforcement options.
- The Council and DNR will work to address misinformation and inconsistencies associated with NELAC adoption process.
- Council will write a letter with examples of poor internal DNR communication.

Agenda Items

- I. Approval of November 13, 1997 Meeting Minutes
 - A. **A motion was made by Mr. Janeshek to accept the February 1998 meeting minutes, it was seconded by Mr. Kollakowsky and the minutes were unanimously accepted.**
- II. Laboratory Certification Program Updates (Sullivan)
 - A. Program Status
 1. The number of labs that have not been seen has dropped from 20 in 1993 to 6 in 1998. Of these, five labs are out of state and are a low Department priority. One in-state lab, the Department of Agriculture pesticide lab is also a low Department priority because very little data is submitted to DNR.
 2. Approximately 540 labs will receive bills for FY 1999. This is an increase from 525 in 1998. Mr. Sullivan mentioned that if 10 labs drop or are added, this could have a noticeable effect on other lab's fees.
 3. The regional auditing program will exceed its goal of 100 audits this fiscal year. Most regional labs have been seen at least 3 times. On the average, regional auditors are issuing reports within 7-14 days of the audit and closing cases within 16 days of issuing the report. Consistency among regional auditors remains a top priority. Measures taken to improve consistency include scheduling training sessions, mock audits and quarterly meetings.
 4. The Central Office has completed 12 audits, written 11 reports, closed 10 cases and issued one NON over the first 5 months of 1998.
 5. **Mr. Kollakowsky asked how many labs were covered by the Central Office.** Approximately 120 labs are covered by the Central Office. If we audit at full performance, we should be on track to see every lab on a three year cycle.
 6. Overall, the program is on pace to complete 120 audits this year. Over 50% of the reports have been issued within 7 days of the audit. A guest asked if we would be able to meet the NELAC requirement for audits once every two years. Mr. Sullivan responded that it would be unlikely that we could meet this goal given the current staffing situation, but it is hard to project at this time.
 7. **Ms. Christie asked how the program was doing on achieving the goal of 15 audits per auditor per year.**

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Mr. Sullivan said that the new auditors are now fully trained and performing audits on their own. The Department expects that this goal will be met in fiscal year 1999.

8. **Mr. Kollakowsky asked if the audit reports are peer reviewed.** All of the Central Office audit reports are reviewed by Mr. Sotomayor for consistency. In the regions, the reports are reviewed after they have been issued.
9. A guest voiced concern regarding consistency of the audit process between regional and Central Office staff. The guest felt that regional labs were receiving hands-on training and help that is not available to certified, commercial labs at the expense of all laboratories. The Department responded that in some cases, the regional auditors spend more time helping out the small facilities but that the situation is a little different because in many cases these facilities work closely with other Department staff, including engineers and other specialists. If deficiencies are found in audits that should have been corrected, the Department will still issue NONs and NOVs to these labs.
10. Mr. Sullivan stated that the amount of GPR used in the program has decreased significantly. The program is very close to fully supporting the staff with program revenue collected by the laboratory fees. The DNR estimates that approximately 0.5 FTE of GPR is being used in the program.
11. Mr. Sotomayor addressed the Council on the issue of labs that have been audited but have not received reports. The Council recommended that audits that were greater than two years old that did not receive a report should be closed with a letter and the lab rescheduled for an on-site evaluation. Approximately 15 labs met these criteria. Mr. Sotomayor stated that several labs have withdrawn from the program and that no further letter was necessary. Further, 3 or 4 labs haven't been closed because the DNR was still negotiating the audit with them. A total of ten labs met the criteria. Letters of closure have been written for all but two of these laboratories. The Department expects to have all the letters written within the next week.
12. The DNR has completed a legal review of statute changes necessary to gear up for NELAC accreditation. The changes that will be proposed in the next biennial budget are written in such a fashion that the program has the option of continuing as is or going for NELAC. Department staff continues to work with Legal Services to move these changes forward. The proposal will be part of the FY 2000-2001 biennium that will be sent to DOA in August of this year. **Ms. Christie asked if this complies with the NELAC timeline.** The Department believes that this will lay the groundwork for NELAC and will allow Wisconsin to stay on the necessary NELAC timelines.
13. After 1998, the EPA reference samples will no longer be available. The DNR has made arrangements to accept drinking water reference samples from several private providers, including ERA and APG. The SLH is investigating whether or not to issue SDWA reference samples.
14. Several labs have not yet submitted the LOD information requested early this year. The DNR is writing letters that will remind labs to send this data. Several council members voiced concerns that this is a compliance issue and that the DNR should take a strong stance against those who do not submit the information, including issuing NONs. The Department agreed and will revise the letter to include a deadline for submitting the information along with a provision that will allow the Department to issue the appropriate enforcement action.
15. The Department passed out a list of potential rule changes to chs. NR 149, 219 and 809. This list is just a rough idea of items that could be changed in the current rules. The DNR does not anticipate a rule change to NR 149 in the immediate future, pending the outcome of the NELAC technical advisory committee.
16. The Council was interested in the status of ch. NR 148. Mr. Sullivan responded that this rule change has been assigned to a staff person who continues to work with other agency programs. This rule is detailed and is being written to comply with NELAC reporting requirements. The DNR anticipates that this rule will move forward with lots of lead time to allow labs sufficient time to bring their systems up to speed, if necessary. The Department envisions integrating laboratory data in a much larger Aquatic and Terrestrial Resources Inventory (ATRI), a database that will include information from all of the sciences. The ATRI system will be GIS based and will be an integral part of the DNR's ecosystem management objectives. The timeline for the completion of the project is unknown.

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B. Budget and Fees

1. At the last meeting, the Council voted to approve an increase in the approved spending authority to \$516,000 for FY 1999. Mr. Sullivan explained that several things needed to happen to get final approval. The proposal was approved by DOA and forwarded to the Legislative Fiscal Bureau (LFB) for approval.
2. LFB approved the increase in spending authority conditional upon the program not raising fees because LFB felt that the program had sufficient funding to operate at the higher spending authority.
3. The DNR believes that there was a misunderstanding between DNR and LFB on how the fees are collected, spent and tracked. Because the program collects fees in advance, the program shows a large positive balance at the close of every fiscal year. This appears to be a large carry-over balance when in reality it is supposed to be sufficient funds to operate the program for the entire fiscal year. Over the last several years, DNR has been building this amount up to avoid deficit spending during any one fiscal year.
4. DNR continues to work with LFB to clear up any confusion over how the fees are tracked.
5. In March, the Natural Resources Board approved laboratory certification fees that are equivalent to last year's price per relative value unit. This will result in a fee increase for certified and reciprocity labs for FY 1999 due to the rule change that was approved by the Board at the February meeting. This rule change adjusted the number of RVUs in the base fee based upon a workload analysis.
6. A guest asked if it would be possible to bill in August, after the start of the fiscal year to avoid this confusion in the future. Mr. Sullivan responded that while this would be possible, it is impractical because all of the DNR's environmental fees are sent out in a consolidated billing in May. This consolidated billing includes wastewater, stormwater, air and hazardous waste fees for some facilities.
7. According to DNR projections, the program anticipates that it will spend \$25 - 35,000 more than it will take in for FY 1999. However, the program will continue to operate as planned because most of the money has already been "spent" for the Oracle upgrade and other expenses. Because we will collect more fees before the close of FY 1999, the program will not show a negative balance at the end of FY 1999.

III. NELAP Updates (Sotomayor)

A. NELAC Meeting

1. The national conference is scheduled for June 29 - July 2 in Texas.
2. The proposed standards are available on the internet and will be voted on at the meeting.
3. Prototypes of audit checklists are also available on the NELAC web site.

B. NELAC Technical Advisory Committee

1. The minutes from previous subcommittee meetings were handed out.
2. The TAC has been following a workplan that includes fact finding and sifting to determine major issues of NELAC implementation.
3. The TAC intends to create a poll or informal survey as a reality check. To do this, each subcommittee (PTOAC, Quality Systems, Fiscal) has identified the most important issues from each of the standards. This informal survey will be completed by a select group of laboratories and the results will be used to guide the TAC. Results from the survey will be due on June 12 in preparation for the June 16 meeting.
4. On July 6, the TAC should be able to suggest a recommendation to the DNR on NELAC adoption. The options for recommendation include no NELAC, NELAC for some labs and NELAC for all labs.
5. The TAC has identified several issues that cause difficulties for the all labs option. These include fiscal concerns, frequency of PT samples and the level of documentation.
6. The Municipal Environmental Group has issued a position statement against NELAC. This letter was handed out to the Council.
7. One of the assumptions that the TAC has been working under is that a two-tiered system will have large

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fiscal implications for the program. The exact cost of NELAC to the Department is unknown.

8. Another assumption is that under NELAC, lab costs will increase due to increased audits, PT samples, documentation, etc.
9. Several guests voiced concerns over the TAC process; stating that the decision has been made by many laboratories and that it is unlikely that consensus will be reached between an "all" or "some" option. The guest felt that maintaining a two-tiered system under a "some" option will result in less consistency, uneven enforcement and unfair competitive advantages. Further, the guest felt that the TAC was not really debating the difficult issues. Mr. Sotomayor mentioned that the TAC is just the first step in the process. After considering the TAC's recommendation, the DNR will need to propose rules that will be taken through the usual public hearing process.
10. Mr. Sotomayor mentioned that the TAC process in Wisconsin is more difficult than in other states because Wisconsin has an established program. In states without a program, the process is moving forward more slowly. Mr. Sotomayor indicated what he believed other states were pursuing: Illinois - all laboratories, Minnesota - dual system, Kansas- all laboratories, Colorado - all laboratories.
11. One of the guests from WELA indicated that WELA plans to hold a round table discussion on NELAC in August. This discussion will include representatives from several states in Region V and the meeting will be open to everyone.
12. **The Council agreed that we need to make every effort to deal with the large amount of misinformation and inconsistent reports that have been circulating in regards to NELAC.**

IV. Council Member's Items

A. Internal DNR Communication

1. The Council reiterated their concern that issues that affect laboratories within the DNR be brought to the attention of the Certification Program to avoid later problems.
2. LabNotes is being written with input from other bureaus.
3. The Council will draft a letter to Mr. Sullivan detailing specific instances where rules have gone forward without appropriate laboratory input. **Council members should send specific examples to Ms. Christie by email. Dave Kollakowsky provided three examples: wastewater permits, the NR 106 expanded or additional compounds with no analytical methods and mercury issues.**
4. Mr. Sullivan agreed that improvements within the DNR should be made. He indicated that cross program issues are discussed weekly at air-water-land interdivisional meetings. Also, wastewater had a focus group on the new permit process and had invited labs to participate, but had poor laboratory response.

B. Other

1. A guest mentioned that he was concerned about laboratory safety, especially in regards to phosphorus analysis. There was a discussion of who was responsible for safety issues at laboratories (OSHA, DHILR). Dr. Sonzogni offered to hold safety training at the SLH.
2. An offer was made to put a safety column into LabNotes as necessary.

VI. Future Meeting Date

1. The next meeting will be held on Thursday September 10, pending completion of the TAC report. If the report is not issued by this time, the meeting will be postponed.
2. The program will work with the Chair to set up the next meeting. The Council members should contact the Chair or Vice-chair to get items on the next meeting's agenda.
3. **A motion was made to adjourn and was unanimously accepted.**

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